IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3574 OF 2006

Smt Nilambari N. Bhosale ...Applicant

Versus

Shri Narendra Baburao Bhosale & Anr. ...Respondents

Shri Suresh M. Sabrad for the Applicant.
Shri Rajesh N. Kachare for the Respondent No.1.
Shri S.V. More, A.P.P for the State.

CORAM : A. S. OKA, J.

DATE : NOVEMBER 22, 2006.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned Advocate for the first Respondent. This Application is filed by the Applicant who has filed a private complaint against the first Respondent alleging commission of offence punishable under section 494 of the Indian Penal Code. By this Application the Applicant is seeking transfer of the criminal case pending in the court of the learned Judicial Magistrate (First Class) at Khed, District Ratnagiri to the court of the learned Metropolitan Magistrate, Mulund, Mumbai. The transfer is sought on the ground that both the Applicant and the first Respondent are residents of Mulund, Mumbai and therefore, it will be convenient for both of them to attend to the case if the same is transferred to the court in Mumbai.

2. The learned Advocate for the Applicant submitted that perusal of the roznama shows that the trial is being delayed in the court at Khed and an Application at Exhibit 50 made in August 2004 made by the first Respondent for recalling the Applicant for further cross-examination remained pending for a period of more than two years. He submits that it is not possible for the Applicant to attend the court at Khed on various dates fixed in the case.

3. The learned Advocate for the first Respondent stated that recording of evidence before charge of all three prosecution witnesses has been completed in the year 2003. He states that the Application at Exhibit 50 made by the first Respondent for recalling the Applicant for further cross-examination has been allowed by the Trial Court by the order dated 03rd October, 2006. The said Application was allowed subject to payment of costs of Rs.500/- by the first Respondent. He states on instructions of the first Respondent who is stated to be present in the court that first Respondent does not desire to examine any defence witnesses.

4. I have considered the submissions. The first

Respondent does not desire to examine any witness. Now the stage of the case is of recording further cross-examination of the Applicant on the basis of order dated 03rd October, 2006 passed by the Trial Court below Application Exhibit 50. As stated earlier, evidence before charge of three prosecution witnesses is already recorded. As this is the stage of the case, it will be unjust to pass order of transfer. However, it will have be ensured that the case is disposed of expeditiously as both the parties will have to attend the court at Khed. The learned Advocate for the Applicant states that the order passed below Exhibit 50 has been challenged by the Applicant by filing appropriate proceeding. Any observation made in this order will not come in the way of the Applicant prosecuting the said proceeding.

5. Hence, I pass the following order:

(i) Prayer for transfer is rejected.

(ii) The learned Trial Judge will decide the pending case as expeditiously as possible and preferably on or before 31st May, 2007.

JUDGE